

### **REMARKS**

In the Office Action dated October 20, 2010, the Examiner rejects claims 11 and 29 under 35 U.S.C. § 112, first paragraph; rejects claim 15 under 35 U.S.C. § 112, second paragraph; rejects claims 17-18 and 21-22 under 35 U.S.C. § 103(a) as being unpatentable over Collito in view of Knoll; rejects claims 1-2, 4-7, 9-10, 12-16, 23, 25-28, and 33 under 35 U.S.C. § 103(a) as being unpatentable over Collito in view of Knoll as applied to claims 17-18 and 21-22, and further in view of Tremont; and rejects claims 11 and 29 under 35 U.S.C. § 103(a) as being unpatentable over Collito in view of Knoll and Tremont as applied to claims 1-2, 4-7, 9-10, 12-16, 23, 25-28, and 33, and further in view of Gross. With this Amendment, Applicant has amended claims 1, 6, 12, 15, 17 and 23. After entry of this Amendment, claims 1, 4-7, 9-18, 21-23, 25-29 and 33 remain pending in the Application. Reconsideration of the Application as amended is respectfully requested.

### **Submission under 37 CFR 1.114**

This amendment is submitted under the provisions of 37 CFR 1.114. The Applicant requests a pre-examination interview in this matter pursuant to the provision of this section in order to expedite allowance in this matter.

### **Rejections under 35 U.S.C. § 112**

Claims 11 and 29 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Claims 11 and 29 are present as originally filed in the application and, as such constitute a part of the specification as filed. The discussion of the detailed embodiment has been amended by this action to include the subject matter of claim 11 and 29. It is submitted that the application now comports with the requirements of 35 U.S.C. § 112, first paragraph.

### **Rejections under 35 U.S.C. §112**

Claim 15 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claim 15 has been amended by this action. It is submitted that claim 15 now comports with the provisions of 35 U.S.C. § 112, second paragraph.

### **Rejections under 35 U.S.C. §103(a)**

Claims 17-18 and 21-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Collito in view of Knoll. Collito is cited for the disclosure of an elongated conduit 12 comprising a flexible fluid tight wall having an internal channel with a non-circular cross section and at least two opposed wall members – one with a convex outer tube and an opposed one with a concave outer surface. The Examiner indicates that the reference does not disclose a polymeric material and a rib/tab. The Knoll reference is submitted for the disclosure of a flexible fluid-tight wall having an internal channel with a non-circular cross section and at least two opposed wall members with an axially and radially inwardly extending rib/tab 2 for the purpose of maintaining structural integrity and promoting turbulence for heat transfer.

The Collito reference is directed to a device in which the non-circular conduit is composed of a metal such as those outlined in that reference at column 2, lines 15-22. The reference lacks any teaching or suggestion of the use of polymeric material as the material of construction for the heat transfer conduit. Similarly, the Knoll reference is directed to a radiator conduit device in which the tube-like shape is made from an aluminum alloy (see Knoll, column 3, lines 34 – 36. The references fail to teach or suggest that an elongated conduit for the transmission of temperature control fluids of the type outlined in the invention as set forth in claim 17 composed of polymeric material could be effectively employed in a heat transfer application. It is submitted that the skilled artisan would be aware that polymeric materials have greater insulation characteristics over metal materials and thus would be less desirable as materials for the heat transfer conduits. Thus it is respectfully submitted that use of polymeric material in the invention as set forth in claim 17 represents more than routine skill. Alternately,

it is submitted that the teaching of metal materials directs the artisan away from the teaching of polymeric materials as employed in the invention as claimed.

Furthermore, it is submitted that the cited references lack any teaching or suggestion that the conduit can be inflated or deflated depending upon the passage of fluid. The Collito reference is a metal material that lacks any teaching of this feature. The Knoll reference is directed to a metal tube with internal reinforcements or webs that ensure that a) during a subsequent rolling of the extruded shape, flat profiled tubes are formed; b) internal web imparts stability during rolling and shaping operations while flattening is proceeding; and c) web provides a turbulence-inducing device. It is submitted that the Knoll reference lacks any teaching to suggestion of inflation/deflation depending upon the presence or absence of the traversal of fluid material. The Knoll reference is directed to a device that is configured to be mechanically flattened by external force. Once flattened the conduit does not revert to its preflattened contours. To do otherwise would contravene the Knoll conduit for its intended use in radiators.

Furthermore, the materials of construction taught in both references are metals. It is submitted that the teaching of such materials in the respective references would direct the artisan away from any teaching or suggestion of polymeric material in addition to a structure that permits inflation/deflation. It is submitted that the cited references argue against the conclusion of general skill as the inflation/deflation feature is only found in the record in the present application. It is submitted that the only way to support the rejection in this regard is to resort to impermissible hindsight.

Claims 18, 21 and 22 depend from claim 17 to contain all of the limitations found therein. By this dependency, it is submitted that the Applicant's invention as set forth in these claims is not taught, anticipated or rendered obvious by the cited references for the reasons discussed previously in conjunction with claim 17.

### **Rejections under 35 U.S.C. §103(a)**

Claims 1-2, 4-7, 9-10, 12-16, 23, 25-28, 30 and 32-33 are rejected under 35 U.S.C. §103(a) as being unpatentable over Collito in view of Knoll as applied to claims 17-18

and 21-22, and further in view of Tremont. The Examiner indicates that the combined teachings of Collito and Knoll lack an elongate cover. Collito is cited for the teaching that the conduits can be secured in any suitable manner. The Examiner states that the Tremont reference discloses an elongate structure that comprises a transmission conduit 32 a flexible elongated temperature control conduit and an elongate cover holding the temperature control conduit within a cavity/pocket onto the transmission conduit for the purpose of ease of maintenance and assembly.

The Collito and Knoll references lack any teaching or suggestion of a structure having flexible elongated temperatures control conduits. The cited references specifically call for metal conduits which lack flexibility of the invention as set forth in claim 1. This has been discussed previously with respect to claim 17. The reasoning and discussion are reiterated at this point as applicable.

The Tremont reference is directed to a device for freezing the liquid in a portion of a pipe. It includes a tube held in place by a wrap surrounding a portion of a conduit member. The Tremont reference lack any teaching or suggestion of an elongated cover holding the temperature control conduits in thermal communication with the transmission conduit in which the elongated conduit is configured with at least two elongated pockets defined on the inwardly oriented surface of the elongated cover. The pockets contain the projecting tabs defined on the respective temperature control conduits and are positioned such that the conduits are positioned in spaced relationship to one another. Thus it is submitted that the invention as set forth in claim 1 is not taught, anticipated or rendered obvious by the cited references.

Claims 2, 4-5 and 26 depend from claim 1 to contain all of the limitations found therein. By this dependency, it is submitted that the Applicant's invention as set forth in claims 2, 4-5 and 26 is not taught, anticipated or rendered obvious for the reasons discussed previously in conjunction with claim 1.

The Applicant's invention as set forth in claim 6 is directed to a device as previously discussed with respect to claim 1. Claim 6 depends from claim 1 to specify that the reinforcement member extends radially with respect to the conduit and the tab is positioned perpendicularly with respect to the reinforcement member. It is submitted that the cited

references, taken alone or in combination, fail to teach or suggest the claimed configuration.

Claims 7, 9-10, 13- 16 depend from claim 6 to contain all of the limitations found therein. By this dependency, it is submitted that the Applicant's invention is not taught, anticipated or rendered obvious by the cited references for the reasons discussed previously in conjunction with claim 6.

Claim 12 depends from claim 1 to contain all of the limitations found therein. Additionally the invention set forth in claim 12 specifies that the polymeric temperature control conduits are held on generally opposing sides of the transmission conduit such that the temperature control conduits can contact each other when in position relative to the transmission conduit.

Claim 23 stands rejected under 35 U.S.C. 103(a) in view of Collito, Knoll and Tremont. The Applicant's invention as defined in claim 23 includes a temperature control conduit having a tab projecting outwardly from the conduit at a location proximate to the inner rib with the tab connected to the cover via an elongated pocket that receives the tab and holds the conduit relative the to the elongated cover. It is submitted that the cited references fail to teach or suggest this feature.

Claims 25, 27-28 and 33 are considered obvious by the cited references. Claims 25, 27-28 depend from claim 23 to contain all of the limitations found therein. By this dependency, it is submitted that the Applicant's invention as set forth in claims 25, 27-28 and 33 is not taught, anticipated or rendered obvious by the cited references for the reasons set forth in conjunction with claim 23.

### **Rejections under 35 U.S.C. §103(a)**

Claims 11 and 29 are rejected under 35 U.S.C. §103(a) as being unpatentable over Collito in view of Knoll and Tremont as applied to claims 1-2, 4-7, 9-10, 12-16, 23, 25-28, and 33, and further in view of Gross.

Claim 11 depends from claim 1 to contain all of the limitations found therein. By this dependency, it is submitted that the Applicant's invention as set forth in claim 11 is not

taught, anticipated or rendered obvious by the cited references for the reasons set forth in claim 1.

Claim 29 depends from claim 23 to contain all of the limitations found therein.

By this dependency, it is submitted that the Applicant's invention as set forth in claim 29 is not taught, anticipated or rendered obvious by the cited references for the reasons set forth in claim 23.

### **Conclusion**

It is submitted that this Amendment has antecedent basis in the Application as originally filed, including the specification, claims and drawings, and that this Amendment does not add any new subject matter to the application. Reconsideration of the Application as amended is requested. It is respectfully submitted that this Amendment places the Application in suitable condition for allowance; notice of which is requested.

If the Examiner feels that prosecution of the present Application can be expedited by way of an Examiner's amendment, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

YOUNG BASILE  
HANLON & MACFARLANE P.C.

s/Denise M. Glassmeyer/

Denise M. Glassmeyer  
Attorney for Applicant  
Registration No. 31,831  
(248) 649-3333  
(248) 649-3338 Fax

3001 West Big Beaver Rd., Suite 624  
Troy, Michigan 48084-3107